

**CALIFORNIA MEDICAL ASSISTANCE COMMISSION**

770 L STREET, SUITE 1000  
SACRAMENTO, CA 95814  
(916) 324-2726  
(916) 324-5597 FAX  
<http://www.cmac.ca.gov>

**CALIFORNIA MEDICAL ASSISTANCE COMMISSION**

770 L Street, Suite 1160  
Sacramento, CA

Minutes of Meeting  
May 10, 2007

**COMMISSIONERS PRESENT**

Cathie Bennett Warner, Chair  
Michele Burton, M.P.H.  
Wilma Chan  
Jerome Horton  
John Longville

**COMMISSIONERS ABSENT**

Nancy McFadden  
Vicki Marti

**CMAC STAFF PRESENT**

Keith Berger, Executive Director  
Tacia Carroll  
Paul Cerles  
Denise DeTrano  
Holland Golec  
Mark Kloberdanz  
Katie Knudson  
Marilyn Nishikawa  
Steve Soto  
Becky Swol  
Michael Tagupa  
Mervin Tamai  
Karen Thalhammer

**EX-OFFICIO MEMBER PRESENT**

Toby Douglas, Department of Health Services

**EX-OFFICIO MEMBER ABSENT**

Thomas Williams, Department of Finance

**I. Call to Order**

The May 10, 2007 open session meeting of the California Medical Assistance Commission (CMAC) was called to order by Chair Cathie Bennett Warner. A quorum was present.

**II. Approval of Minutes**

The April 26, 2007 meeting minutes were approved as prepared by CMAC staff.

### **III. Executive Director's Report**

Keith Berger, Executive Director, began his report by thanking the Postsecondary Education Commission for the use of their hearing room. He said that finding space in the Capitol this time of year can be difficult.

Mr. Berger provided the Commissioners with an update regarding the Distressed Hospital Fund (Fund). He indicated that CMAC had received hospitals' proposals for this year's Fund process. Similar to last year, he said, CMAC has received over 80 proposals from contracting Selective Provider Contracting Program (SPCP) hospitals requesting in excess of \$200 million. Also similar to last year, CMAC has a very limited amount of money available in the Fund, estimated to be \$13-\$14 million, plus any available federal matching funds.

Mr. Berger said that last year, CMAC received a number of public comments, including many that recommended CMAC focus the available funds at a limited number of facilities, so that the payments would have a greater impact. Spreading the money across all hospitals submitting proposals would result in each facility receiving only a couple hundred thousand dollars.

As CMAC begins the review of proposals, Mr. Berger said, the Commission would like to seek public comment again on perspectives regarding the Commission's focus and process for the Fund that could help CMAC fine tune this year's approach.

Mr. Berger said he had sent a letter to the various hospital associations, which they have said they would share with their members, requesting any written comments that they wish to submit to CMAC.

Mr. Berger noted that CMAC would also put an agenda item on the next meeting notice inviting the hospital associations, their members and other interested parties to come to our meeting on May 24, and briefly present any comments they may have directly to Commissioners during open session.

At a recent Assembly Budget Subcommittee No. 1 Hearing, Mr. Berger was asked to give a general update on CMAC's County Organized Health System (COHS) and Geographic Managed Care (GMC) negotiations.

Among the Subcommittee's questions, Mr. Berger was asked to comment on a proposal to shift the responsibility for establishing COHS plan rates from CMAC to the California Department of Health Services (CDHS).

Mr. Berger noted that there are several different managed care models utilized by Medi-Cal, including the two-plan, COHS and GMC. GMC is the one most clearly set up as a competitive model, with multiple competing commercial health plans. He also noted that a COHS is the sole plan providing care for beneficiaries in its service area.

Mr. Berger said that he believes that CMAC has provided some added flexibility and coordination to the COHS negotiation process in the past that has been helpful, but that given the non-competitive nature of the negotiations CMAC would not oppose a move that shifted the responsibility back to the CDHS.

In addition, Mr. Berger said a question was raised asking how the Legislature could exercise appropriate oversight of the CMAC negotiation process given the confidentiality of the negotiations.

Mr. Berger expressed that this was an important question that has been raised from time to time over the last 25 years. He said it was important that everyone understand how the Legislature addressed this issue when the Commission was created. Mr. Berger then shared his response to the subcommittee.

Mr. Berger explained that the SPCP was established in 1982 to maintain access to hospital inpatient services for Medi-Cal beneficiaries at the most cost-effective rates. The method chosen to implement those objectives was a competitive negotiation process. He said that this method was expanded to include selected managed care programs in the 1990s.

The Legislature recognized at the beginning the need for competitive negotiations to be carried out in a confidential manner in order to be most successful. Thus, they put in statute a number of ways of providing oversight for the SPCP negotiation process.

The first was the creation of this Commission. The first year of the SPCP was administered by the Governor's Office of Special Healthcare Negotiations, headed by an individual commonly called the Medi-Cal Czar. CMAC was established to take over that responsibility at the end of the first year and to provide ongoing oversight and guidance to the negotiation process.

Mr. Berger continued and explained that seven Commissioners are appointed to carry out that oversight and guidance - four appointed by the Legislature and three appointed by the Governor. Every contract and amendment that CMAC negotiates must be reviewed by the Commissioners and approved by a majority vote, providing oversight by representatives of the Legislature and the Administration on every negotiation.

A second measure, said Mr. Berger, required the Departments of Health Services and Finance to be put on the Commission as ex-officio members so that Commissioners could benefit from their input on those decisions and so the departments would know what agreements had been reached.

Third, in the Commission's statutory exemptions establishing the parameters of the confidentiality protections for the negotiation process, both the Joint Legislative Audit Committee and, later, the Legislative Analyst's Office (LAO) were given authority to come in at any time and look at the contracts negotiated by CMAC. He said that they must maintain the confidentiality of the contracts and amendments in accordance with the statute, but may inspect them at any time prior to the time they are available to the public.

Finally, said Mr. Berger, the contracts and amendments do ultimately become public documents. The terms and conditions are public one year after the effective date and the rates and payment amounts are public after four years.

Mr. Berger stated that he believes that CMAC has been successful for the past 25 years because those oversight mechanisms have worked very well. With the guidance that all of the current Commissioners and their predecessors have provided to CMAC staff over the years, CMAC has been able to achieve its objectives of access and cost savings and to do so with the fairness and integrity that the Legislature originally intended.

Continuing his report, Mr. Berger said that he attended a health care reform stakeholder meeting that Toby Douglas had mentioned at the last meeting. He said at the meeting the Administration was seeking hospital input on how to implement the concept of a required minimum medical loss ratio for hospitals - one feature of the Governor's health care reform proposal. He noted that there were a number of issues and definitions that need to be analyzed and that will need to be discussed further at future meetings.

Concluding his report, Mr. Berger indicated that there were three amendments and contracts before the Commissioners for review and action in today's closed session, as well as several important negotiation updates and discussions of ongoing negotiation strategies.

#### **IV. Department of Health Services (CDHS) Report**

Toby Douglas, Assistant Deputy Director, Medical Care Services, CDHS, began his report by informing CMAC about the Health Care Coverage Initiative, a part of the hospital financing waiver. He reported that CDHS is in contact with the 10 selected counties, although they continue to wait for final approval from the Centers for Medicare & Medicaid Services (CMS) before implementation, which is scheduled for September 1, 2007. He noted that it is still unclear as to what type of costs the counties can claim under the initiative.

Mr. Douglas updated CMAC on Fresno County issues and concerns raised by the federal government regarding an intergovernmental transfer (IGT) to help cover the costs of Medi-Cal services. Mr. Douglas noted that potential remedies have been suggested to Fresno County by CMS, Congressman Costa of Fresno and CDHS in an effort to reach a resolution. Mr. Douglas indicated that Fresno County's main concern was how realignment funding could be utilized.

Regarding the Governor's health care reform proposal, Mr. Douglas reported that meetings with stakeholder groups have ended and with the help of legislative staff, language was now being drafted, and will hopefully be completed over the summer. The Commissioners expressed to Mr. Douglas that they would like to be informed when the language is produced. Mr. Douglas said he would notify Mr. Berger when the language is available.

Mr. Douglas said that the Administration and the Children's Hospital Association are looking at how the reform will benefit and impact children's hospitals. Mr. Douglas noted that reforming California's health care system is the primary goal of the Administration this year.

**V. New Business/Public Comments/Adjournment**

There being no further new business and no comments from the public, Chair Bennett Warner recessed the open session. Chair Bennett Warner opened the closed session, and after closed session items were addressed, adjourned the closed session, at which time the Commission reconvened in open session. Chair Bennett Warner announced that the Commission had taken action on hospital contracts and amendments in closed session. The open session was then adjourned.